

Message Text

UNCLASSIFIED

PAGE 01 MEXICO 14957 01 OF 02 071902Z

ACTION CPR-01

INFO OCT-01 ARA-14 ISO-00 L-03 JUSE-00 TRSE-00 OPR-02

A-01 SP-02 PER-05 /029 W

-----001456 071931Z /45

R 071851Z SEP 77

FM AMEMBASSY MEXICO

TO SECSTATE WASHDC 4806

UNCLAS SECTION 01 OF 02 MEXICO 14957

E.O. 11652: N/A

TAGS: PDIP, MX

SUBJECT: HOST COUNTRY REQUIREMENTS FOR AUTOMOBILE
LIABILITY INSURANCE

REF: STATE 189095

1. ANSWERS TO THE CORRESPONDING QUESTIONS RAISED IN
REFTEL OF AUGUST 11, ARE AS FOLLOWS:

A) THERE IS NO MANDATORY FEDERAL AUTOMOBILE INSURANCE
LAW IN MEXICO, BUT VARIOUS MEXICAN STATES LEVY LIABILITY
INSURANCE REQUIREMENTS ON THEIR RESIDENTS. FOR INSTANCE,
THE FEDERAL DISTRICT, WHICH FUNCTIONS AS A STATE, HAS A
LAW REQUIRING AUTOMOBILE INSURANCE AND ASKS FOR EVIDENCE
OF SAME AT THE TIME APPLICATION IS MADE FOR LICENSE
PLATES. THE EMBASSY, ALTHOUGH NEVER HAVING BEEN REQUIRED
TO SHOW PROOF OF INSURANCE COVERAGE TO OBTAIN EITHER
OFFICIAL OR PRIVATE LICENSE PLATES, DOES ADHERE TO THE
LETTER AND SPIRIT OF THIS LAW.

B) THE GOVERNMENT OF MEXICO SETS THE MINIMUM INSURANCE
COVERAGE AND THE APPLICABLE PREMIUMS THROUGH A REGULATORY
COMMISSION. IN PURCHASING LIABILITY INSURANCE IN MEXICO,
MOST CAR OWNERS SEEK, AND MOST COMPANIES INSIST ON,
UNCLASSIFIED

UNCLASSIFIED

PAGE 02 MEXICO 14957 01 OF 02 071902Z

MINIMUM COVERAGE. AT PRESENT TIME, MINIMUM COVERAGE IS
\$155,000 M.N. (U.S. \$6,607.93) FOR PROPERTY DAMAGE;
\$45,000 M.N. (U.S. \$19,823.79) COMPENSATION FOR INJURIES
OR DEATH DAMAGE FOR ONE PERSON' AND \$900,000 M.N.
(U.S. \$39,647.58) FOR DAMAGES FOR INJURIES OR DEATH TO
THIRD PARTY. ALL AMERICAN USG PERSONNEL IN MEXICO ARE
REQUIRED TO PURCHASE AT LEAST THE MINIMUM COVERAGE, AND

OFTEN CHOOSE HIGHER OPTIONAL AMOUNTS, BECAUSE IT IS EMBASSY POLICY TO REQUIRE THIS COVERAGE AS AN ESSENTIAL, LEGALLY REQUIRED, COMMON SENSE MEASURE OF PROTECTION. C) THERE IS NO FEDERAL REQUIREMENT THAT FOREIGN GOVERNMENT VEHICLES BE INSURED, BUT THE FEDERAL DISTRICT REPEAT DISTRICT LAW REQUIRES MINIMUM INSURANCE COVERAGE FOR ALL CARS AND MAKES NO EXCEPTIONS FOR DIPLOMATIC OR CONSULAR VEHICLES.

D) ALL MEMBERS OF THE MISSION ARE OBLIGED BY EMBASSY POLICY TO CARRY LIABILITY INSURANCE AT LEAST AT MINIMUM LEGAL LEVELS ON PERSONALLY OWNED VEHICLES. NO AMERICAN EMPLOYEE HAS EVER REFUSED TO HONOR THIS POLICY. SHOULD THEY DO SO EMBASSY WOULD REFUSE ASSISTANCE IN OBTAINING LICENSE PLATES AND MEXICAN DRIVER'S LICENSE. THE MECHANISMS USED TO ACCOMPLISH THIS PARTICIPATION ARE (1) LEGAL REQUIREMENT AND (2) COMMON SENSE PERSUASION, ESPECIALLY AN EXPLANATION THAT UNDER MEXICAN LAW, ONE IS MUCH LESS LIKELY TO BE BOTHERED BY ADMINISTRATIVE COURT PROCEEDINGS WHICH FOLLOW ACCIDENTS WHEN ONE HAS THIRD PARTY INSURANCE AND PROPERTY DAMAGE. IN EXPLAINING THIS, IT IS POINTED OUT THAT IF THERE IS AN ACCIDENT, AND BOTH PARTIES AGREE WHO IS TO BLAME AND BOTH PARTIES ARE INSURED, THE INSURANCE ADJUSTORS CAN GENERALLY ARRANGE QUICK AND FAIR COMPENSATION.

UNCLASSIFIED

UNCLASSIFIED

PAGE 03 MEXICO 14957 01 OF 02 071902Z

HOWEVER, IF DRIVERS CANNOT AGREE WHO IS TO BLAME, THEY MUST BOTH GO TO THE LOCAL POLICE DELEGATION TO MAKE THEIR RESPECTIVE STATEMENTS. THIS, JUST BY ITSELF, CAN BE A LENGTHY PROCESS, OFTEN REQUIRING THE GREATER PART OF A DAY. IF ONE HAS AN INSURANCE ADJUSTOR, AND ALL DEPT/CONSULAR PERSONNEL DO, HE CAN GENERALLY ARRANGE THINGS QUICKLY AND AVOID NECESSITY ANY AMERICAN EMPLOYEE HAVING TO SPEND MUCH TIME IN THE POLICE DELEGATIONS. HOWEVER, UNDER MEXICAN LAW, A PERSON WITHOUT INSURANCE MAY BE HELD AT THE LOCAL POLICE STATION, ALONG WITH HIS AUTOMOBILE, UNTIL THE TRAFFIC ACCIDENT EXPERTS MAKE A DECISION AS TO WHO WAS AT FAULT IN THE ACCIDENT. THIS CAN TAKE TWO OR THREE DAYS, MOREOVER. UNDER MEXICAN-AMERICAN TREATY, A CONSULAR OFFICER, FOR EXAMPLE, HAS IMMUNITY ONLY FOR HIS OFFICIAL ACTS. THEREFORE, AN AMERICAN EMPLOYEE WITH NO THIRD PARTY LIABILITY INSURANCE IS RISKING DETENTION IN A MEXICAN POLICE STATION IF HE HE/SHE HAS AN ACCIDENT. THE DANGER OF THIS HAPPENING IS ESPECIALLY GREAT IN THE PROVINCES WHERE POLICE ARE NEITHER TOO AWARE OR RESPECTFUL OF DIPLOMATIC/CONSULAR PRIVILEGES. INITIAL DETENTION IS INEVITABLE IF ANYONE IS HURT OR KILLED IN AN ACCIDENT ALTHOUGH EARLY RELEASE IS ASSURED

ONCE DIPLOMATIC IDENTITY IS ESTABLISHED. NON-DIPLOMATIC PERSONNEL ARE ALSO LIKELY TO BE TREATED COURTEOUSLY AND NO DOUBT RELEASED BUT WITH THE ASSURANCE THAT THE CONCERNED EMPLOYEE WILL BE AVAILABLE TO MEET HIS RESPONSIBILITIES AS DECIDED BY APPROPRIATE JUDICIAL AUTHORITY.

E) IF ONE OF THE PARTIES TO AN ACCIDENT IS DISSATISFIED WITH THE ADJUSTOR'S FINDINGS, HE MAY SUE THE OTHER PARTY AND THE OTHER PARTY'S INSURANCE COMPANY. THERE ARE

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PAGE 01 MEXICO 14957 02 OF 02 071908Z
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R 071851Z SEP 77

FM AMEMBASSY MEXICO
TO SECSTATE WASHDC 4807

UNCLAS SECTION 02 OF 02 MEXICO 14957

NO FINANCIAL LIMITS TO SUCH SUITS. THIS HAPPENS IN LESS THAN ONE PERCENT OF ALL ACCIDENTS. THE QUESTION OF DIPLOMATIC IMMUNITY HAS NEVER BEEN RAISED BY AN EMPLOYEE AS A MEANS OF AVOIDING AN OBLIGATION, NOT EVEN IN THE ADMINISTRATIVE PROCEEDINGS WHICH APPLY IN 99.9 PERCENT OF ALL ACCIDENT CASES. HOWEVER, THE INSURANCE CARRIER HAS NOTED THAT IN THE EVENT OF A LAWSUIT INVOLVING A DIPLOMAT, THE COMPANY WOULD INDEED STIPULATE THAT DIPLOMATIC IMMUNITY PRECLUDES TRIAL IN GOM COURTS. IN THE PAST, THE INSURANCE CARRIER WHO HANDLES ALL USG AND POV VEHICLES UNDER A SINGLE BLANKET POLICY HAS PAID DAMAGES WHEN THE AMERICAN EMPLOYEE OR USG CHAUFFEUR WAS IN THE WRONG. NO CASE HAS EVER GONE TO COURT.

F) SINCE NO CASE HAS GONE TO COURT, THIS IS A MOOT QUESTION, BUT A DIPLOMAT'S GOVERNMENT'S REFUSAL TO WAIVE HIS IMMUNITY TO TESTIFY IN DEFENSE OF HIS ACTION MIGHT BE CONSIDERED A BREACH OF CONTRACT AND THIS FACT COULD BE CAUSE FOR CANCELLING CONTRACT. IT HAS NEVER HAPPENED.

G) AS A RULE, NO GOVERNMENT WAIVES THE DIPLOMATIC IMMUNITY OF ITS DIPLOMATS IN ACCIDENT CASES. WE, THUS FAR, HAVE FOLLOWED THIS SAME RULE. THE POOR PROSPECTS FOR SUCCESS IN SUING A DIPLOMAT OR THE COMPANY WHICH RE-
UNCLASSIFIED

UNCLASSIFIED

PAGE 02 MEXICO 14957 02 OF 02 071908Z

PRESENTS HIM, PROMPTS MOST PARTIES TO SEEK AND TO ACCEPT REASONABLE SETTLEMENTS.

H) INSURANCE COMPANIES HAVE IN THE PAST, AND CONTINUE NOW, TO INSURE AUTOMATICALLY THE POV OF ANY EMBASSY OR CONSULATE AMERICAN EMPLOYEE WHO APPLIES FOR COVERAGE UNDER A FLEET ARRANGEMENT WITH OPTIONS AS TO FINANCIAL LEVEL OF THAT COVERAGE.

I) ALL PREMIUMS ARE THE SAME FOR EQUAL AMOUNTS OF PROTECTION FOR EVERYONE IN MEXICO, INCLUDING DIPLOMATIC PERSONNEL.

J) NO. ALL INSURANCE CONTRACTS ARE STANDARD, INCLUDING THOSE FOR DIPLOMATIC PERSONNEL.

K) NO. IMMUNITY IS NEVER WAIVED.

L) NOT APPLICABLE.

M) THE PRESENT SYSTEM WORKS WELL. OUR INSURANCE COMPANY, THE LARGEST IN MEXICO, HAS ALWAYS BEEN QUICK TO SETTLE CLAIMS AND AMERICAN EMPLOYEES HAVE VERY RARELY AND BRIEFLY BEEN DETAINED PENDING ADMINISTRATIVE FINDING OF FAULT AND THEN EXCLUSIVELY IN THE PROVINCES. THERE HAS NEVER BEEN AN INSTANCE IN MEXICO CITY IN WHICH ANYONE HAS BEEN KILLED OR INCAPACITATED IN AN AUTOMOBILE ACCIDENT BY AN AMERICAN EMPLOYEE OF THE EMBASSY. NEITHER ARE WE AWARE OF ANY SUCH CASES INVOLVING DIPLOMATS OF OTHER MISSIONS.

N) NONE KNOWN. LUCEY#

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01-Jan-1994 12:00:00 am
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: INSURANCE, DIPLOMATIC PRIVILEGES, LAW, AUTOMOBILES
Control Number: n/a
Copy: SINGLE
Sent Date: 07-Sep-1977 12:00:00 am
Decaption Date: 01-Jan-1960 12:00:00 am
Decaption Note:
Disposition Action: n/a
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment:
Disposition Date: 01-Jan-1960 12:00:00 am
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1977MEXICO14957
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Expiration:
Film Number: D770324-0061
Format: TEL
From: MEXICO
Handling Restrictions: n/a
Image Path:
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Legacy Key: link1977/newtext/t19770991/aaaacysg.tel
Line Count: 210
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: 67464a4b-c288-dd11-92da-001cc4696bcc
Office: ACTION CPR
Original Classification: UNCLASSIFIED
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 4
Previous Channel Indicators: n/a
Previous Classification: n/a
Previous Handling Restrictions: n/a
Reference: 77 STATE 189095
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 06-Dec-2004 12:00:00 am
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 1366421
Secure: OPEN
Status: NATIVE
Subject: HOST COUNTRY REQUIREMENTS FOR AUTOMOBILE LIABILITY INSURANCE
TAGS: PDIP, ELTN, MX
To: STATE
Type: TE
vdkgvwkey: odbc://SAS/SAS.dbo.SAS_Docs/67464a4b-c288-dd11-92da-001cc4696bcc
Review Markings:
Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
22 May 2009
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 22 May 2009